

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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|---------------------------|---------------------------|
| UNITED STATES OF AMERICA, | : |
| | : |
| Plaintiff, | : |
| | : |
| v. | :Cr. Action No. 08-87-JJF |
| | : |
| COURTNEY MURRAY, | : |
| | : |
| Defendant. | : |

MOTION TO SUPPRESS EVIDENCE

COMES NOW the Defendant, COURTNEY MURRAY, by and through counsel, and respectfully requests that this Honorable Court, pursuant to Federal Rules of Criminal Procedure 12(b)(3) and 41(f), suppress all evidence taken from the person of the Defendant, by police or Government agents, and all oral or written statements made by the Defendant; said seizure of evidence and the obtaining of oral and written statements from the Defendant being unreasonable, illegal, void and without probable cause.

Specifically, all items allegedly seized from , at or near the Defendant in the area of the 1900 block of West 5th Street, Wilmington, Delaware on or about May 1, 2008, said items having been seized without probable cause and in violation of Defendant's Fourth Amendment rights. Defendant submits that the initial stop of the Defendant was conducted without reasonable suspicion or probable cause in violation of Defendant's right to be free from unlawful searches and seizures. Terry v. Ohio, 392 U.S.1 (1968).

In this case, the police, responding to a citizen's complaint

of suspicious persons, approached the Defendant who was walking down the street in broad daylight in the vicinity of two other individuals. Defendant allegedly refused to comply with the officer's request to stop and was "tazed." (See affidavit of Probable Cause). A person approached by a police officer may not be detained even momentarily without reasonable, objective grounds for doing so, and his refusal to listen or answer does not, without more, furnish those grounds. United States v. Mendenhall, 446 U.S. 544, 556 (1980). Indeed, he may go about his business. Terry @ 32-33. See also, Florida v. Royer, 460 U.S. 491, 498 (1983).

WHEREFORE, the Defendant, COURTNEY MURRAY, moves to suppress all evidence seized from the Defendant and/or his premises, and all oral and written statements made by the Defendant.

/s/ Raymond M. Radulski, Esquire
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Attorney for Defendant,
COURTNEY MURRAY

Dated: July 2, 2008

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| COURTNEY MURRAY, | : |
| | : |
| Defendant. | : |

ORDER

The Defendant, COURTNEY MURRAY'S Motion To Suppress Evidence having been heard and considered,

ORDERED this _____ day of _____, 2008, A.D.,
that all items of evidence seized from the Defendant and all oral
and written statements made by Defendant are suppressed.

J.

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| | : |
| Defendant. | : |

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I electronically filed Defendant COURTNEY MURRAY's Motion To Suppress Evidence with the Clerk of Court using CM/ECF which will send notification of such filing to the following: AUSA Geoffrey Grivner, 1007 Orange Street, 7th Floor, Wilmington, Delaware.

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Dated: July 2, 2008